

REMARKS

Claims 1, 3-9, 11-19, and 21-22 are pending in this application. By this Amendment, claim 21 is amended and claims 20 and 23-24 are canceled.

The Office Action asserts an Election of Species Requirement between the following:

Species I (claims 1, 3-8, 12, 20 and 23-24);

Species II (claim 9);

Species III (claims 11, 13, 16-17 and 22); and

Species IV (claims 18-19).

Applicants provisional elect Species I, with traverse. At least claims 1, 3-8, 12, and 20-24 relate to the "species" identified in the Office Action.

The Election of Species Requirement is improper and inconsistent with Patent Office rules. Specifically, the Election of Species Requirement does not identify the embodiment that the Applicants are expected to elect. Instead, the Office Action broadly identifies grouping of claims and characterizes those groupings as "species". "Claims are definitions of inventions. *Claims are never species.*" MPEP §806.04(e) (emphasis in original). Patent Office rules make clear that an Election of Species Requirement cannot be based on groupings of claims. A proper Election of Species Requirement must identify the embodiments of the invention from which the Applicants are expected to make an election. As the Election of Species Requirement is improper, Applicants cannot properly make a precise election of the specific embodiment that is elected in this Response.

The Election of Species Requirement is also improper because the Examiner has already performed a search of the prior art in regard to all of the claims characterized as "species", and has found at least claims 9, 11, and 13-19 allowable over the prior art in that search. Therefore, no further search should be needed.

In light of the above and the allowance of claims within the "species" identified in the Office Action, it is also respectfully submitted that the subject matter of all "species" are

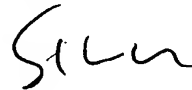
sufficiently related that a second search for the subject matter of any one "species" would, and has already encompassed a search for the subject matter of the remaining "species." Thus, it is respectfully submitted that a second search is not necessary and the examination of the entire application can be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Thus, withdrawal of the Election of Species Requirement is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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